

House File 2074 - Introduced

HOUSE FILE 2074

BY SALMON

A BILL FOR

1 An Act relating to driver's license suspensions and revocations
2 for operating-while-intoxicated offenses.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.210D, Code 2018, is amended to read
2 as follows:

3 ~~321.210D Vehicular homicide suspension~~ Suspension for causing
4 death or serious injury by vehicle — termination upon revocation
5 of license — reopening of suspension.

6 1. If a trial information or indictment is filed charging a
7 person with the offense of homicide by vehicle under section
8 707.6A, subsection 1 or 2, or with an offense under section
9 707.6A, subsection 4, by the means described in section 707.6A,
10 subsection 1, the clerk of the district court shall, upon the
11 filing of the information or indictment, forward notice to the
12 department including the name and address of the party charged,
13 the registration number of the vehicle involved, if known,
14 the nature of the offense, and the date of the filing of the
15 indictment or information.

16 2. Upon receiving notice from the clerk of the district
17 court that an indictment or information has been filed charging
18 an operator with ~~homicide by vehicle under section 707.6A,~~
19 an offense listed in subsection 1 ~~or 2,~~ the department shall
20 notify the person that the person's driver's license will be
21 suspended effective ten days from the date of issuance of the
22 notice. The department shall adopt rules relating to the
23 suspension of the license of an operator pursuant to this
24 section which shall include, but are not limited to, procedures
25 for the surrender of the person's license to the department
26 upon the effective date of the suspension.

27 3. If a person whose driver's license has been suspended
28 pursuant to [this section](#) is not convicted of the charge of
29 ~~homicide by vehicle under section 707.6A,~~ an offense listed
30 in subsection 1 ~~or 2,~~ upon record entry of disposition of
31 the charge, the clerk of the district court shall forward a
32 notice including the name and address of the party charged, the
33 registration number of the vehicle involved, the nature of the
34 offense charged by indictment or information, the date of the
35 filing of the indictment or information, and of the disposition

1 of the charge to the department. Upon receipt of the notice
2 from the clerk, the department shall automatically rescind the
3 suspension and reinstate the person's driver's license without
4 payment of any charge or penalty.

5 4. Upon receiving a record of conviction under section
6 321.206, for a violation of ~~section 707.6A~~, an offense listed
7 in subsection 1 or 2, and upon revocation of the person's
8 license or operating privileges under [section 321.209](#), the
9 suspension under [subsection 2](#) shall automatically terminate in
10 favor of the revocation.

11 Sec. 2. Section 321.555, subsection 1, paragraph h, Code
12 2018, is amended to read as follows:

13 h. Serious injury by a vehicle in violation of section
14 707.6A, subsection 4, by any of the means described in section
15 707.6A, subsection 2.

16 Sec. 3. Section 321J.2, subsection 3, paragraph d,
17 unnumbered paragraph 1, Code 2018, is amended to read as
18 follows:

19 Revocation of the person's driver's license for a minimum
20 period of one ~~hundred eighty days~~ year up to a maximum
21 revocation period of ~~one year~~ two years, pursuant to section
22 321J.4, subsection 1, [section 321J.9](#), or section 321J.12,
23 subsection 2. If a revocation occurs due to test refusal
24 under [section 321J.9](#), the defendant shall be ineligible for a
25 temporary restricted license for a minimum period of ninety
26 days.

27 Sec. 4. Section 321J.2, subsection 4, paragraph c, Code
28 2018, is amended to read as follows:

29 c. Revocation of the defendant's driver's license for a
30 period of ~~one year~~ two years, if a revocation occurs pursuant
31 to [section 321J.12, subsection 1](#). If a revocation occurs due
32 to test refusal under [section 321J.9](#), or pursuant to section
33 321J.4, subsection 2, the defendant's license shall be revoked
34 for a period of ~~two~~ four years.

35 Sec. 5. Section 321J.2, subsection 5, paragraph c, Code

1 2018, is amended to read as follows:

2 *c.* ~~Revocation~~ Permanent revocation of the person's driver's
3 license ~~for a period of six years~~ pursuant to section 321J.4,
4 subsection 4.

5 Sec. 6. Section 321J.4, subsection 1, unnumbered paragraph
6 1, Code 2018, is amended to read as follows:

7 If a defendant is convicted of a violation of [section 321J.2](#)
8 and the defendant's driver's license or nonresident operating
9 privilege has not been revoked under [section 321J.9](#) or [321J.12](#)
10 for the occurrence from which the arrest arose, the department
11 shall revoke the defendant's driver's license or nonresident
12 operating privilege for ~~one hundred eighty days~~ year if the
13 defendant submitted to chemical testing and has had no previous
14 conviction or revocation under [this chapter](#) and shall revoke
15 the defendant's driver's license or nonresident operating
16 privilege for ~~one year~~ two years if the defendant refused to
17 submit to chemical testing and has had no previous conviction
18 or revocation under [this chapter](#). The defendant shall not be
19 eligible for any temporary restricted license for at least
20 ninety days if a test was refused under [section 321J.9](#).

21 Sec. 7. Section 321J.4, subsections 2, 4, 5, and 6, Code
22 2018, are amended to read as follows:

23 2. If a defendant is convicted of a violation of section
24 321J.2, and the defendant's driver's license or nonresident
25 operating privilege has not already been revoked under section
26 321J.9 or [321J.12](#) for the occurrence from which the arrest
27 arose, the department shall revoke the defendant's driver's
28 license or nonresident operating privilege for ~~one year~~ two
29 years if the defendant submitted to chemical testing and has
30 had a previous conviction or revocation under [this chapter](#) and
31 shall revoke the defendant's driver's license or nonresident
32 operating privilege for ~~two~~ four years if the defendant refused
33 to submit to chemical testing and has had a previous revocation
34 under [this chapter](#). The defendant shall not be eligible for
35 any temporary restricted license for forty-five days after the

1 effective date of revocation if the defendant submitted to
2 chemical testing and shall not be eligible for any temporary
3 restricted license for ninety days after the effective date of
4 revocation if the defendant refused chemical testing. The
5 temporary restricted license shall be issued in accordance with
6 section 321J.20, subsection 2. The department shall require
7 the defendant to install an ignition interlock device of a type
8 approved by the commissioner of public safety on all vehicles
9 owned or operated by the defendant if the defendant seeks a
10 temporary restricted license at the end of the minimum period
11 of ineligibility. A temporary restricted license shall not
12 be granted by the department until the defendant installs the
13 ignition interlock device.

14 4. Upon a plea or verdict of guilty of a third or subsequent
15 violation of [section 321J.2](#), the department shall revoke the
16 defendant's driver's license or nonresident operating privilege
17 ~~for a period of six years permanently~~. The defendant shall not
18 be eligible for a any temporary restricted license ~~for one year~~
19 ~~after the effective date of the revocation~~. ~~The department~~
20 ~~shall require the defendant to install an ignition interlock~~
21 ~~device of a type approved by the commissioner of public safety~~
22 ~~on all vehicles owned or operated by the defendant if the~~
23 ~~defendant seeks a temporary restricted license at the end of~~
24 ~~the minimum period of ineligibility~~. ~~A temporary restricted~~
25 ~~license shall not be granted by the department until the~~
26 ~~defendant installs the ignition interlock device~~.

27 5. Upon a plea or verdict of guilty of a violation of
28 section 321J.2 which involved a personal injury, the court
29 shall determine in open court, from consideration of the
30 information in the file and any other evidence the parties
31 may submit, whether a serious injury, as defined in section
32 702.18, was sustained by any person other than the defendant
33 and, if so, whether the defendant's conduct in violation of
34 section 321J.2 caused the serious injury. If the court so
35 determines, the court shall order the department to revoke the

1 defendant's driver's license or nonresident operating privilege
2 ~~for a period of one year in addition to any other period of~~
3 ~~suspension or revocation permanently.~~ The defendant shall not
4 be eligible for any temporary restricted license until the
5 ~~minimum period of ineligibility has expired under this section~~
6 ~~or [section 321J.9](#), [321J.12](#), or [321J.20](#).~~ The defendant shall
7 surrender to the court any Iowa license or permit and the court
8 shall forward ~~it~~ the license or permit to the department with a
9 copy of the order for revocation.

10 6. Upon a plea or verdict of guilty of a violation of
11 section 321J.2 which involved a death, the court shall
12 determine in open court, from consideration of the information
13 in the file and any other evidence the parties may submit,
14 whether a death occurred and, if so, whether the defendant's
15 conduct in violation of [section 321J.2](#) caused the death. If
16 the court so determines, the court shall order the department
17 to revoke the defendant's driver's license or nonresident
18 operating privilege ~~for a period of six years~~ permanently. The
19 defendant shall not be eligible for any temporary restricted
20 license ~~for at least two years after the revocation.~~ The
21 defendant shall surrender to the court any Iowa license or
22 permit and the court shall forward ~~it~~ the license or permit to
23 the department with a copy of the order for revocation.

24 Sec. 8. Section 321J.9, subsection 1, paragraphs a and b,
25 Code 2018, are amended to read as follows:

26 a. ~~One year~~ Two years if the person has no previous
27 revocation under [this chapter](#); and

28 b. ~~Two~~ Four years if the person has had a previous
29 revocation under [this chapter](#).

30 Sec. 9. Section 321J.12, subsection 1, paragraphs a and b,
31 Code 2018, are amended to read as follows:

32 a. ~~One hundred eighty days~~ year if the person has had no
33 revocation under [this chapter](#).

34 b. ~~One year~~ Two years if the person has had a previous
35 revocation under [this chapter](#).

1 Sec. 10. Section 321J.12, subsection 2, paragraph d, Code
2 2018, is amended to read as follows:

3 d. A person whose license or privileges have been revoked
4 under [subsection 1](#), paragraph "b", ~~for one year~~ shall not be
5 eligible for any temporary restricted license for forty-five
6 days after the effective date of the revocation, and the
7 department shall require the person to install an ignition
8 interlock device of a type approved by the commissioner
9 of public safety on all vehicles owned or operated by the
10 defendant if the defendant seeks a temporary restricted
11 license at the end of the minimum period of ineligibility. The
12 temporary restricted license shall be issued in accordance with
13 section 321J.20, subsection 2. A temporary restricted license
14 shall not be granted by the department until the defendant
15 installs the ignition interlock device.

16 Sec. 11. Section 321J.20, subsection 1, paragraph a,
17 unnumbered paragraph 1, Code 2018, is amended to read as
18 follows:

19 The department may, on application, issue a temporary
20 restricted license to a person whose noncommercial driver's
21 license is revoked under [this chapter](#) allowing unless the
22 person's noncommercial driver's license has been permanently
23 revoked. A temporary restricted license issued under this
24 subsection shall allow the person to drive to and from the
25 person's home and specified places at specified times which can
26 be verified by the department and which are required by the
27 person's full-time or part-time employment, continuing health
28 care or the continuing health care of another who is dependent
29 upon the person, continuing education while enrolled in an
30 educational institution on a part-time or full-time basis and
31 while pursuing a course of study leading to a diploma, degree,
32 or other certification of successful educational completion,
33 substance abuse treatment, court-ordered community service
34 responsibilities, appointments with the person's parole or
35 probation officer, and participation in a program established

1 pursuant to [chapter 901D](#), if the person's driver's license has
2 not been revoked previously under [section 321J.4](#), [321J.9](#), or
3 [321J.12](#) and if any of the following apply:

4 Sec. 12. Section 321J.20, subsection 1, paragraph b, Code
5 2018, is amended to read as follows:

6 *b.* A temporary restricted license may be issued under this
7 subsection if the person's noncommercial driver's license is
8 revoked for ~~two~~ four years under [section 321J.4](#), [subsection 2](#),
9 or [section 321J.9](#), [subsection 1](#), paragraph "b", and the first
10 three hundred sixty-five days of the revocation have expired.

11 Sec. 13. Section 321J.20, subsection 2, paragraph a, Code
12 2018, is amended to read as follows:

13 *a.* Notwithstanding [section 321.560](#), the department may,
14 on application, and upon the expiration of the minimum period
15 of ineligibility for a temporary restricted license provided
16 for under [section 321.560](#), [321J.4](#), [321J.9](#), or [321J.12](#), issue a
17 temporary restricted license to a person whose noncommercial
18 driver's license has either been revoked under [this chapter](#), or
19 revoked or suspended under [chapter 321](#) solely for violations
20 of [this chapter](#), or who has been determined to be a habitual
21 offender under [chapter 321](#) based solely on violations of this
22 chapter or on violations listed in [section 321.560](#), subsection
23 1, paragraph "b", and who is not eligible for a temporary
24 restricted license under [subsection 1](#). However, the department
25 ~~may~~ shall not issue a temporary restricted license under
26 this subsection for a violation of [section 321J.2A](#), ~~or~~ to a
27 person under the age of twenty-one whose license is revoked
28 under [section 321J.4](#), [321J.9](#), or [321J.12](#), or to a person whose
29 noncommercial driver's license has been permanently revoked
30 under this chapter. A temporary restricted license issued
31 under [this subsection](#) may allow the person to drive to and
32 from the person's home and specified places at specified times
33 which can be verified by the department and which are required
34 by the person's full-time or part-time employment; continuing
35 education while enrolled in an educational institution on a

1 part-time or full-time basis and while pursuing a course of
2 study leading to a diploma, degree, or other certification of
3 successful educational completion; substance abuse treatment;
4 or participation in a program established pursuant to chapter
5 901D.

6 Sec. 14. Section 707.6A, subsections 1, 1A, 1B, 1C, 1D, and
7 4, Code 2018, are amended to read as follows:

8 1. A person commits a class "B" felony when the person
9 unintentionally causes the death of another by operating a
10 motor vehicle while intoxicated, as prohibited by section
11 321J.2.

12 ~~1A.~~ a. Upon a plea or verdict of guilty of a violation
13 of this subsection 1, the defendant shall surrender to the
14 court any Iowa license or permit and the court shall forward
15 the license or permit to the department with a copy of the
16 order of conviction. Upon receipt of the order of conviction,
17 the department shall revoke the defendant's driver's license
18 or nonresident operating privilege ~~for a period of six years~~
19 permanently. The defendant shall not be eligible for a any
20 temporary restricted license ~~for at least two years after the~~
21 ~~revocation~~.

22 ~~1B.~~ b. Upon a plea or verdict of guilty of a violation of
23 this subsection 1, the court shall order the defendant, at the
24 defendant's expense, to ~~do the following~~:

25 ~~a. Enroll, attend, and satisfactorily complete a course for~~
26 ~~drinking drivers, as provided in section 321J.22.~~

27 ~~b. Submit submit to evaluation and treatment or~~
28 ~~rehabilitation services.~~

29 ~~1C. A driver's license or nonresident operating privilege~~
30 ~~shall not be reinstated until proof of completion of the~~
31 ~~requirements of subsection 1B is presented to the department.~~

32 ~~1D.~~ c. Where the program is available and appropriate for
33 the defendant, the court shall also order the defendant to
34 participate in a reality education substance abuse prevention
35 program as provided in section 321J.24.

1 4. A person commits a class "D" felony when the person
2 unintentionally causes a serious injury, as defined in
3 section 702.18, by any of the means described in subsection
4 1 or 2. Upon a plea or verdict of guilty of a violation of
5 this subsection by the means described in subsection 1, the
6 defendant shall surrender to the court any Iowa license or
7 permit and the court shall forward the license or permit to
8 the department with a copy of the order of conviction. Upon
9 receipt of the order of conviction, the department shall revoke
10 the defendant's driver's license or nonresident operating
11 privilege permanently.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill relates to driver's license suspensions and
16 revocations for operating-while-intoxicated (OWI) offenses.

17 The bill increases the driver's license revocation period
18 for OWI offenses. For a first OWI offense where the person
19 submitted to a chemical test, the bill increases the driver's
20 license revocation period from 180 days to one year. For
21 a first OWI offense where the person refused to submit to
22 a chemical test, the bill increases the driver's license
23 revocation period from one year to two years. For a second
24 OWI offense where the person submitted to a chemical test, the
25 bill increases the driver's license revocation period from one
26 year to two years. For a second OWI offense where the person
27 refused to submit to a chemical test, the bill increases the
28 driver's license revocation period from two years to four
29 years. For a third or subsequent OWI offense, the bill strikes
30 the driver's license revocation period of six years and imposes
31 permanent revocation. For an OWI offense causing death, the
32 bill strikes the driver's license revocation period of six
33 years and imposes permanent revocation. Finally, for an OWI
34 offense causing serious injury, the bill strikes the driver's
35 license revocation period of one year, which is in addition

1 to the revocation period for the underlying OWI offense, and
2 imposes permanent revocation.

3 Under current law, Code section 321.210D provides, in part,
4 that if a person is charged with an OWI offense causing death,
5 the clerk of the district court shall forward notice to the
6 department of transportation (DOT), and the department shall
7 notify the person that the person's driver's license will be
8 suspended effective 10 days from the date of issuance of the
9 notice. If the person is not convicted, the clerk of the
10 district court shall forward a notice to the DOT, and the
11 department shall automatically rescind the suspension and
12 reinstate the person's driver's license without payment of any
13 charge or penalty. The bill applies these procedures to a
14 person charged with an OWI offense causing serious injury.

15 The bill removes OWI offenses causing serious injury from
16 the list of offenses under Code section 321.555 for which
17 a person can be designated as an habitual offender for the
18 purposes of driver's license revocation.

19 The bill prohibits the DOT from issuing a temporary
20 restricted license under Code chapter 321J to a person whose
21 driver's license has been permanently revoked.

22 Under current law, a person convicted of an OWI offense
23 causing death is required to enroll, attend, and satisfactorily
24 complete a course for drinking drivers designed to inform the
25 person about drinking and driving and encourage the person
26 to assess the person's own drinking and driving behavior in
27 order to select practical alternatives. The bill strikes this
28 requirement.